

REMARKS

Claims 1-20 were presented for examination and were rejected. The applicants respectfully request reconsideration in light of the amendments and the following comments.

35 U.S.C. 101 Rejection of Claim 1-20

Claims 1-20 have been rejected under 35 U.S.C. 101 as not tied to a particular machine or apparatus. The applicants respectfully traverse.

Claim 1 recites:

1. A method of conducting an auction in behalf of an auction solicitor, the method comprising:

publishing from a data processing system a relationship between a first auction variable that is a bid variable and a second auction variable that is not a bid variable; and

selecting at the data processing system a winning bid in the auction, wherein the selection of the winning bid is dependent on the first auction variable and independent of the second auction variable;

wherein the first auction variable and the second auction variable become contract terms of a contract that results from the auction; and

wherein the value of the second auction variable in the contract is based on the value of the first auction variable in the contract and the relationship between the first auction variable and the second auction variable.

(emphasis supplied)

The task "publishing" is clearly and explicitly tied to a "data processing system," which is a particular machine or apparatus.

The task "selecting" is clearly and explicitly tied to a "data processing system," which is a particular machine or apparatus.

Therefore, each task is tied to a machine or apparatus, and for this reason, the applicants respectfully submit that the rejection of claim 1 is traversed.

Because claims 2-10 depend on claim 1, the applicants respectfully submit that the rejection of them is also traversed.

Claim 11 recites:

11. A method of conducting an auction in behalf of an auction solicitor, the method comprising:

publishing from a data processing system a relationship between a first auction variable that is a bid variable and a second auction variable that is not a bid variable, wherein the relationship is such that a change in the first auction variable in a direction that is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder; and

selecting at the data processing system a winning bid in the auction based on the first auction variable and independent of the second auction variable;

wherein the first auction variable and the second auction variable become contract terms of a contract that results from the auction; and

wherein the value of the second auction variable in the contract is based on the value of the first auction variable in the contract and the relationship between the first auction variable and the second auction variable.

(emphasis supplied)

The task “publishing” is clearly and explicitly tied to a “data processing system,” which is a particular machine or apparatus.

The task “selecting” is clearly and explicitly tied to a “data processing system,” which is a particular machine or apparatus.

Therefore, each task is tied to a machine or apparatus, and for this reason, the applicants respectfully submit that the rejection of claim 11 is traversed.

Because claims 12-20 depend on claim 11, the applicants respectfully submit that the rejection of them is also traversed.

35 U.S.C. 103 Rejection of Claims 1-3, 5, 10, and 20

Claims 1-3, 5, 10, and 20 have been rejected under 35 U.S.C. 103(a) as unpatentable over R.S. Nieboer et al., U.S. Patent 6,518,419 (hereinafter “Nieboer”) in view of by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter “Abdou”). The applicants respectfully traverse the rejection.

Claim 1, as amended, recites:

1. A method of conducting an auction in behalf of an auction solicitor, the method comprising:

publishing from a data processing system a relationship between a first auction variable that is a bid variable and a second auction variable that is not a bid variable; and

selecting at the data processing system a winning bid in the auction, wherein the selection of the **winning bid** is **dependent** on the first auction variable and **independent** of the second auction variable;

wherein the first auction variable and the second auction variable become **contract terms** of a contract that results from the auction; and

wherein the value of the second auction variable in the contract is based on the value of the first auction variable in the contract and the **relationship** between the first auction variable and the second auction variable.

(emphasis supplied)

Nowhere does Nieboer nor Abdou teach or suggest, alone or in combination, what claim 1 recites — namely,

- publishing a relationship between a first ***bid*** variable and a second ***nonbid*** variable, and
- selecting a winning bid that is ***dependent*** on the first auction variable but ***independent*** of the second auction variable, and
- wherein the first auction variable and the second auction variable become ***contract terms*** of a contract that result from the auction.

For this reason, the applicants respectfully submit that the rejection of claim 1 is traversed.

Because claims 2, 3, 5, and 10 depend on claim 1, the applicants respectfully submit that the rejection of them is also traversed.

Claim 20 depends on independent claim 11, and the Office agrees that claim 11 is patentable over Nieboer and Abdou. Therefore, the applicants respectfully submit that the rejection of claim 20 is traversed.

35 U.S.C. 103 Rejection of Claim 4

Claim 4 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al., U.S. Patent 6,518,419 (hereinafter "Nieboer") in view of by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of C.C.

Aggarwal, U.S. Patent 6,151,589 (hereinafter "Aggarwal"). The applicants respectfully traverse.

Claim 4 depends on independent claim 1, and Aggarwal fails to cure the deficiencies of Nieboer and Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claim 4 is traversed.

35 U.S.C. 103 Rejection of Claims 6-8

Claims 6-8 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al., U.S. Patent 6,518,419 (hereinafter "Nieboer") in view of by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of K. Williams, "*Reviewing and Analyzing Service Contracts*," (hereinafter "Williams"). the applicants respectfully traverse.

Claims 6-8 depend on independent claim 1, and Williams fails to cure the deficiencies of Nieboer and Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claims 6-8 is traversed.

35 U.S.C. 103 Rejection of Claim 9

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al., U.S. Patent 6,518,419 (hereinafter "Nieboer") in view of by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of Business Wire, "*Test Drive RFPHere.com Free for Three Months*," (hereinafter "Business Wire"). The applicants respectfully traverse.

Claim 9 depends on independent claim 1, and Business Wire fails to cure the deficiencies of Nieboer and Abdou with respect to claim 1. Therefore, the applicants respectfully submit that the rejection of claim 9 is traversed.

35 U.S.C. 103 Rejection of Claims 11-13 and 19-20

Claim 11 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by Nieboer and Abdou in view of S.E. Kinney et al., U.S. Patent 6,871,191 (hereinafter "Kinney"). The applicants respectfully traverse.

Independent claim 11, as amended, recites:

11. A method of conducting an auction in behalf of an auction solicitor, the method comprising:

- publishing from a data processing system a relationship between a first auction variable that is a bid variable and a second auction variable that is not a bid variable, ***wherein the relationship is such that a change in the first auction variable in a direction that is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder***; and
- selecting at the data processing system a winning bid in the auction based on the first auction variable and independent of the second auction variable;
- wherein the first auction variable and the second auction variable become contract terms of a contract that results from the auction; and
- wherein the value of the second auction variable in the contract is based on the value of the first auction variable in the contract and the relationship between the first auction variable and the second auction variable.

(emphasis supplied)

Nowhere do Nieboer nor Abdou nor Kinney, alone or in combination, teach or suggest what claim 11 recites — namely, the relationship between the first auction variable and the second auction variable is such that ***a change in the first auction variable in a direction that is favorable to the auction solicitor induces a change in the second auction variable in a direction that is favorable to a bidder.***

Kinney teaches a plurality of bidders in an auction, each of which can offer a different quantity of a good at a different price, and the Office incorrectly equates the price and quantity terms of Kinney with the first auction variable and the second auction variable. This is incorrect for two reasons.

First, in Kinney the data processing system does not publish a relationship between price and quantity that become contract terms in a contract that results from the auction

Second, in Kinney the winner of the auction is based on both price and quantity, but as recited in claim 11, the winner is based on the first auction variable but is independent of the second auction variable.

For these reasons, the applicants respectfully submit that the rejection of claim 11 is traversed.

Because claims 12-13 and 19-20 depend on claim 11, the applicants respectfully submit that the rejection of them is also traversed.

35 U.S.C. 103 Rejection of Claims 15-17

Claims 15-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al., U.S. Patent 6,518,419 (hereinafter "Nieboer") in view of by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of S.E. Kinney et al., U.S. Patent 6,871,191 (hereinafter "Kinney") and K. Williams, "*Reviewing and Analyzing Service Contracts*," (hereinafter "Williams"). The applicants respectfully traverse.

Claims 15-17 depend on independent claim 11, and Williams fails to cure the deficiencies of Nieboer and Abdou and Kinney with respect to claim 11. Therefore, the applicants respectfully submit that the rejection of claims 15-17 is traversed.

35 U.S.C. 103 Rejection of Claim 18

Claim 18 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by R.S. Nieboer et al., U.S. Patent 6,518,419 (hereinafter "Nieboer") in view of by H.M. Abdou, U.S. Patent Application Publication 2002/0107773 A1 (hereinafter "Abdou") in view of S.E. Kinney et al., U.S. Patent 6,871,191 (hereinafter "Kinney") and Business Wire, "*Test Drive RFPHere.com Free for Three Months*," (hereinafter "Business Wire"). The applicants respectfully traverse.

Claim 18 depends on independent claim 11, and Business Wire fails to cure the deficiencies of Nieboer and Abdou and Kinney with respect to claim 11. Therefore, the applicants respectfully submit that the rejection of claim 18 is traversed.

Request for Reconsideration Pursuant to 37 C.F.R. 1.111

Having responded to each and every ground for objection and rejection in the last Office action, applicants respectfully request reconsideration of the instant application pursuant to 37 CFR 1.111 and request that the Examiner allow all of the pending claims and pass the application to issue.

If there are remaining issues, the applicants respectfully request that Examiner telephone the applicants' attorney so that those issues can be resolved as quickly as possible.

Respectfully,
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By **/Jason Paul DeMont/**

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